

Town of Framingham



Annual Town Meeting April 2012

Financial Articles Background Material

Office of the Chief Financial Officer

Mary Ellen Kelley, CFO

Town of Framingham

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- ARTICLE 20 Transfer Funds to Disability Commission
- ARTICLE 21 Collective Bargaining Agreements: Amend Corresponding Pay Schedules and Transfer of Funds
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Article 18: Other Post Employment Benefits Trust Fund

To see of the Town will vote to adopt Section 20 of Chapter 32B of the Massachusetts General Laws to establish an Other Post Employment Benefits Liability Trust Fund.

Draft Motion for Article 18:

I move that Town Meeting vote to accept Section 20 of chapter 32B of the Massachusetts General Laws to establish an Other Post Employment Benefits Trust Fund and designate the Treasurer/Collector as the Trustee.

Background Information for Article 18:

The other Post Employment Benefits Liability or OPEB, is the value of the future cost of health insurance for current retirees and the future cost of health insurance for future retirees. The Government Accounting Standards Board required by regulation that the Town records this liability in its financial statements as of 2007. Municipalities were required to have an actuarial study of all employees covered by health insurance and all retirees covered by health insurance. At this time there is no mandate to fund the liability although many municipalities have started. Some communities have created a Trust Fund and allocated what they have available in non-recurring revenue to it. Other communities have appropriated nothing at all and just created the Trust Fund. A handful of communities are actually fully funding their annual required contribution. There are two methods for creating the Trust Fund: (1) adopt Section 20 of chapter 32B as we are recommending; or (2) file special legislation with the state Legislature to create a Trust Fund. The method we are recommending is the most efficient and practical.

Regardless of whether the Town makes a contribution to the trust fund, the adoption of this provision of Massachusetts General Law will indicate to the bond rating agencies that we are at least acknowledging our long term liabilities and making some forward progress. The adoption of this article in NO way binds the Town to the annual funding requirement. It simply creates a legal vessel to house and manage the funds when Town Meeting does appropriate it.

The entire text of section 20 of Chapter 32B, as amended in 2011, which governs how municipalities handle OPEB is included at the end of this section in italics. The amendment in 2011 added the provision that allows municipalities to assign the Board of Trustees of state Health Care Security Trust as custodian for the Framingham OPEB Trust Fund. Our recommendation at this time is to keep the Trustee at the local level.

Chapter 32B: Section 20. Other Post-Employment Benefits Liability Trust Fund

[Text of section as amended by 2011, 68, Sec. 57 effective July 1, 2011. See 2011, 68, Sec. 221.]

Section 20. (a) A city, town, district, county or municipal lighting plant that accepts this section may establish an Other Post-Employment Benefits Liability Trust Fund, and may appropriate amounts to be credited to the fund. Any interest or other income generated by the fund shall be added to and become part of the fund. Amounts that a governmental unit receives as a sponsor of a qualified retiree prescription drug plan under 42 U.S.C. section 1395w-132 may be added to and become part of the fund. All monies held in the fund shall be segregated from other funds and shall not be subject to the claims of any general creditor of the city, town, district, county or municipal lighting plant.

(b) The custodian of the fund shall be (i) a designee appointed by the board of a municipal lighting plant; (ii) the treasurer of any other governmental unit; or (iii) if designated by the city, town, district, county or municipal lighting plant in the same manner as acceptance prescribed in this section, the Health Care Security Trust board of trustees established in section 4 of chapter 29D, provided that the board of trustees accepts the designation. The custodian may employ an outside custodial service to hold the monies in the fund. Monies in the fund shall be invested and reinvested by the custodian consistent with the prudent investor rule established in chapter 203C and may, with the approval of the Health Care Security Trust board of trustees, be invested in the State Retiree Benefits Trust Fund established in section 24 of chapter 32A.

(c) This section may be accepted in a city having a Plan D or Plan E charter, by vote of the city council; in any other city, by vote of the city council and approval of the mayor; in a town, by vote of the town at a town meeting; in a district, by vote of the governing board; in a municipal lighting plant, by vote of the board; and in a county, by vote of the county commissioners.

(d) Every city, town, district, county and municipal lighting plant shall annually submit to the public employee retirement administration commission, on or before December 31, a summary of its other post-employment benefits cost and obligations and all related information required under Government Accounting Standards Board standard 45, in this subsection called "GASB 45", covering the last fiscal or calendar year for which this information is available. On or before June 30 of the following year, the public employee retirement administration commission shall notify any entity submitting this summary of any concerns that the commission may have or any areas in which the summary does not conform to the requirements of GASB 45 or other standards that the commission may establish. The public employee retirement administration commission shall file a summary report of the information received under this subsection with the chairs of the house and senate committees on ways and means, the secretary of administration and finance and the board of trustees of the Health Care Security Trust.

Article 19: Major Litigation Contingency Fund

To see if the Town will vote to raise and appropriate, transfer from available funds or otherwise provide the sum of One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00) to establish a litigation contingency fund for use with respect to any judicial, administrative or regulatory proceeding for which legal costs to the Town exceed Twenty Five Thousand and 00/100 Dollars (\$25,000.00), provided that the Board of Selectmen and the Finance Committee are kept apprised of expenditures from such contingency fund as they occur.

Pass any vote or take any action in relation thereto.

Draft Motion for Article 19:

I move that the Town vote to raise and appropriate, transfer from available funds or otherwise provide the sum of One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00) to establish a litigation contingency fund for use with respect to any judicial, administrative or regulatory proceeding for which legal costs to the Town exceed Twenty Five Thousand and 00/100 Dollars (\$25,000.00), provided that the Board of Selectmen and the Finance Committee are kept apprised of expenditures from such contingency fund as they occur.

Background Material for Article 19:

See attached memo from Town Counsel included here after Article 37.

Article 20: Transfer Funds to the Disability Commission

To see if the Town will vote to reimburse the Disability Commission for their portion of the Farm Pond Handicapped Playground project from performance bond proceeds related to that project.

Draft Motion for Article 20:

I move that Town Meeting vote to transfer \$18,128 from the undesignated fund balance to the Disability Commission appropriation for expenditure by the Disability Commission for expenditure by the Commission.

Background Material for Article 20:

This article is a reimbursement to the Disability Commission for their portion of the Farm Pond Handicapped Playground project from contractor performance bond proceeds related to that project. In FY10 as part of their approved spending plan, the disability commission appropriated \$36,000 to contribute to the construction of a handicapped accessible playground at Farm Pond to be constructed under the direction of the Park and Recreation Department. The playground began construction, but the contractor failed to complete the construction. Another contractor was hired and completed the playground to the Department's satisfaction. At the same time the failed contractor was forced to forfeit his performance bond. The remaining balance of the bond

is to be returned to the Disability Commission. The bond proceeds were not received until FY2011, so a direct reimbursement to the Disability Commission was not a possibility. We had to wait for the funds to close out to free cash and appropriate from the undesignated fund balance after the free cash certification. Free cash was certified in November 2011, so this was scheduled as an article for the annual Town Meeting.

Article 21: Approve Collective Bargaining Agreements and corresponding pay schedules and transfer of funds

To see if the Town will vote to fund any collective bargaining agreements that have been settled, and adopt any necessary changes to the Pay Schedules for Fiscal Year 2013.

Pass any vote or take any action relative thereto.

Draft Motion for Article 21:

To see if the Town will vote to approve certain collective bargaining agreements and corresponding pay schedules and the transfer funds to impacted departments as provided in the background material.

Background Material for Article 21:

There are two collective bargaining agreements pending final approval. The background material will be provided as soon as final approval is received.

Article 22: Approve COLA increase for non-bargaining (if any) and corresponding pay schedules and transfer of funds

To see if the Town will vote to adopt amended salary schedules for non-union personnel (M) and Division Head (DH) classifications.

Pass any vote or take any action relative thereto.

Background Material for Article 22:

This article is withdrawn with the concurrence of the sponsor.

Article 23: Approve FY13 Pay Schedules

To see if the Town will vote to adopt for Fiscal Year 2013, the pay plans as listed:

- Schedule M – Municipal Employees
- Schedule T – Temporary Employees
- Schedule DH – Division Heads
- Schedule PSM – Public Safety Management
- Schedule LO – Library Pages
- Schedule DPS – Dispatchers
- Schedule FF – Firefighters

Schedule FDC – Deputy Fire Chiefs
Schedule L – Library
Schedule PS – Police Superiors
Schedule PD – Police Officers
Schedule PW – Public Works Supervisors
Schedule V – Crossing Guards
Schedule W – General Local 1156
Schedule WH – Police and Fire Mechanics

Pass any vote or take any action in relation thereto.

Background Material for Article 23:

This is an annual article that asks Town Meeting to approve all municipal pay schedules every year, regardless of whether the schedules have changed. This year there is one article that may make changes to specific pay schedules: Article 21. The pay schedules associated with that article will be amended as part of that vote. This article simply asks Town Meeting to affirm all existing Town department pay schedules for FY13. The schedules in this article are not changing, there is no COLA and the steps do not change. The pay schedules will be provided to Town Meeting Members as a packet on the back table well in advance of the article. The pages cannot be included here because the book will exceed the maximum number of pages to be printed and mailed.

Article 24: Reauthorize MGL Ch 44, Section 53 ½ Revolving Funds

To see if Town Meeting will vote to authorize or re-authorize several revolving funds as defined by M.G.L., Chapter 44, Section 53E ½ for FY12 beginning July 1, 2011, including, but not limited to the following:

Draft Motion for Article 24:

I move that Town Meeting vote to authorize or re-authorize several revolving funds as defined by M.G.L., Chapter 44, Section 53E ½ for FY13 beginning July 1, 2012, including, but not limited to the following:

Background Material for Article 24:

State law allows the Town to create certain revolving funds allocating dedicated revenue streams to fund certain expenditures outside of General fund appropriations. This is an annual article that authorizes the existence of the following revolving funds with expenditure ceilings for FY13.

<u>Fund</u>	<u>Manager</u>	<u>Purpose</u>	<u>FY13 Spending Ceiling</u>	<u>Disposition of FY12 Fund Balance</u>
Town Owned Building/Civic Use Fund - Maynard Building	Building Services Department of the General Government Division	To receive funds from rental fees and other similar charges for the use of the Jonathan Maynard Building and to authorize the Building Services Department to spend these funds for direct expenses associated with the general maintenance of this building such as custodial direct expenses associated with the general maintenance of this building such as custodial costs, utilities, maintenance supplies and other similar expenses.	\$50,000	Balance available for expenditure
Town Owned Building/Civic Use Fund - Danforth and Memorial Buildings	Building Services Department of the General Government Division	To receive funds from rental fees and other similar charges for the use of the Danforth and Memorial Buildings and to authorize the Building Services Department to spend these funds for direct expenses associated with the general maintenance of these buildings such as custodial costs, utilities, maintenance supplies and other similar expenses	\$90,000	Balance available for expenditure
Town Owned Building/Civic Use Fund - Cushing Chapel	Building Services Department of the General Government Division	To receive funds from rental fees and other similar charges for the use of Cushing Chapel and to authorize the Building Services Department to spend these funds for direct expenses associated with the general maintenance of these buildings such as custodial costs, utilities, maintenance supplies and other similar expenses.	\$20,000	Balance available for expenditure
Town Owned Building/Civic Use Fund - Concerts on the Common	Building Services Department of the General Government Division	To receive funds from the sale of food and other similar charges during Concerts on the Common and to authorize the Building Services Department to spend these funds for direct expenses associated with the sale of food and other concert-related charges such as staff costs, utilities, maintenance supplies and other similar expenses.	\$4,000	Balance available for expenditure
School Bus Fees	Framingham School Committee -- School Department	To receive and spend funds for direct expenses associated with the transportation of students to and from school.	\$380,000	Balance available for expenditure
Town Wetland Protection Fund	Conservation Commission	To receive and spend funds to pay services associated with processing Permits and Requests for Determination	\$28,000	Balance available for expenditure

<u>Fund</u>	<u>Manager</u>	<u>Purpose</u>	<u>FY13 Spending Ceiling</u>	<u>Disposition of FY12 Fund Balance</u>
Excavation Management Fund	Department of Public Works	To account for revenue from fees generated by Town of Framingham's Street Opening Permit and if approved by Town Meeting, fees associated with the Excavation Management program. The intent of this revolving fund is to retain the revenue generated there from, within an account, that the Department of Public Works may access, as needed, for the administrative and operational costs associated with the management of this program.	\$75,000	Balance available for expenditure
Vaccine Administration Fund	Board of Health	To use funds secured from reimbursements from any insurance carrier, public or private, and payments received from residents or non-residents for any vaccine administration to all individuals who are served by the Framingham Board of Health. The funds will be used to buy additional vaccines and supplies and ancillary services needed to maintain the Town's clinic demands, clinical, preventative and health education programs for the Board of Health which may include, but not be limited to vaccine storage and handling and volunteer trainings in pandemic preparedness and emergency response.	\$27,000	Balance available for expenditure
Fluorescent Lamp/Mercury Recycling	Department of Public Works	To use funds secured from the cost to dispose of Fluorescent lamps, compact fluorescents and other mercury containing items like thermometers, thermostats and button-cell batteries to offset the costs of disposal. In addition, we will encourage the proper disposal of these regulated items at or by a certified vendor using the correct containers.	\$5,000	Balance available for expenditure
Town Records Preservation	Town Clerk	To use funds secured from vital records charges to preserve deteriorating records of the Town of Framingham. A specific charge of \$2 per record is collected and will be deposited in this fund to be used for record preservation	\$34,000	Balance available for expenditure
Callahan Senior Center	Council on Aging	To use fees and revenues received from building rental, programming, and general services. The funds would be expended to cover associated costs and expenses of those services and for the advancement of Council on Aging's established mission statement. All expenditures would be compliant with MGL Chapters 44 section 53E1/2. Said expenditures shall be made by the Council on Aging and its professional staff and under the general direction of the Division Manager.	\$25,000	Balance available for expenditure
Emergency Management Equipment	Framingham Emergency Management Agency	The revolving account is needed to collect fees assessed to NERAC (Northeast Regional Advisory Council for Homeland Security) communities for the use of centrally housed equipment for emergent situations. The monies collected will be used to provide upkeep and maintenance on the equipment in the cache.	\$3,500	Balance available for expenditure
Animal Control	Animal Control Department	To use fees collected from boarding animals and kennel rental fees for the purpose of offsetting kennel operating costs. Expenses include veterinary care, rabies clinics, and rabies testing, equipment purchase and office supplies.	\$4,500	Balance available for expenditure

Article 25: Prior Year Bills

Dedicated to Excellence in Public Service

To see if the Town will vote to raise and appropriate, transfer from available funds or otherwise provide a sum or sums of money for the purpose of paying unpaid bills of prior years of the Town.

Pass any vote or take any action in relation thereto.

Background Material for Article 25:

There are four prior year bills. These bills, if approved by Town Meeting will be paid from FY12 operating budgets. The bills are:

DPW Snow & Ice - Gioioso & Sons \$2,025
Parks & Recreation – American Engineering & Testing, Inc. \$341.25
Parks & Recreation – MCI/Verizon \$321.69
Building Services – NSTAR Electric \$24.85
Building Services – Verizon \$57.79

The individual background information for each bill will be available for town Meeting members and Committees prior to Town Meeting. The additional material exceeds the print capability for the Financial Articles background book.

Article 26: Appropriate Off-site Mitigation Funds

To see if the Town will vote to appropriate a sum or sums of money for off-site mitigation improvements or as otherwise agreed upon by the Town of Framingham Planning Board and Project Applicant(s) pursuant to recorded Planning Board decisions(s).

Pass any vote or take any action in relation thereto.

Background Material for Article 26:

\$3,500 from Cumberland Farms, 730 Cochituate Road. These funds are to be assigned to other work in the Technology Park Infrastructure Plan adopted by the Planning Board. Planning Board decision dated December 10, 2009.

\$13,500 from Genzyme, 47 New York Ave. These funds are to be for off-site traffic, pedestrian, lighting and streetscape improvements within the Technology Park, as determined by the Board. Planning Board decision dated December 2, 2011.

\$25,000 from Dennison Bishop, LLC 4 Bishop Street. These funds are to be for the improvement of neighborhood amenities. Planning Board decision dated December 17, 2002 and June 17, 2003.

\$5,000 from Brimstone Estates. These funds are to be transferred to the Conservation Trust Fund for management of open space as specified in Condition 34 of the special permit and Article 37 of the subdivision approval.

Mitigation funds received from developers with approved Planning Board Site Plan Review Decisions must be appropriated by Town Meeting in order to be expended for the purpose or project specified in the Decision. This is the state Department of Revenue requirement which has been in place since 2007.

Article 27: FY12 General Fund Budget Adjustments

To see if the Town will vote to determine what sum or sums of money the Town will appropriate and raise, or transfer from available funds, for the operations of the Town of Framingham, including debt and interest for Fiscal Year 2012 (July 1, 2011 – June 30, 2012) and to see what budgets for Fiscal Year 2012 will be reduced to offset said appropriations.

Pass any vote or take any action in relation thereto.

Background Material for Article 27:

From	Dept	To	Dept	For
\$45,000	Health insurance	\$45,000	Building Services	Salary costs due to workers compensation and repairs
\$150,000	Health insurance	\$150,000	Fire Department	Overtime and compensation pay buyouts
\$23,000	Health Insurance	\$23,000	Town Manager	Salaries for Temporary Services and Town Manager
\$80,000	Health Insurance	\$80,000	Debt Service	Shortage in interest on abatements and debt pay down

Article 28: FY12 Water Enterprise Budget Adjustments

To see if the Town will vote to determine what sum or sums of money the Town will appropriate and raise, or transfer from available funds, for the operations of the Water Department, including debt and interest for Fiscal Year 2012 (July 1, 2011 – June 30, 2012) and to see what budgets for Fiscal Year 2012 will be reduced to offset said appropriations.

Pass any vote or take any action in relation thereto.

Background Material for Article 28:

The FY12 Water Department budget requires adjustment for two items. The FY12 MWRA Assessment voted in the prior Annual Town Meeting was \$6,807,815. The final FY12 MWRA Assessment is \$6,859,304, an increase of \$51,489. The debt service increase in long term principle that was determined in the fall as part of budget review for the fall Town Meeting must be transferred from certified retained earnings. This amount is \$862,000. This appropriation was not made at the fall Town Meeting because FY11 retained earnings were not yet certified. FY11 retained earnings were certified in November of 2011 at \$5,224,481. The net remaining retained earnings after this appropriation will be \$4,362,481.

Article 29: FY12 Sewer Enterprise Budget Adjustments

To see if the Town will vote to determine what sum or sums of money the Town will appropriate and raise, or transfer from available funds, for the operations of the Sewer Department, including debt and interest for Fiscal Year 2012 (July 1, 2011 – June 30, 2012) and to see what budgets for Fiscal Year 2012 will be reduced to offset said appropriations.

Pass any vote or take any action in relation thereto.

Background Material for Article 29:

The FY12 Sewer Department budget requires one adjustment. The debt service increase in long term principle that was determined in the fall as part of the budget review for the fall Town Meeting must be transferred from certified retained earnings. The debt service shortfall is \$220,000. This action could not be taken at the fall Town Meeting because FY11 retained earnings were not yet certified. The certified amount for FY11 is \$3,828,310. The net remaining balance after this appropriation is \$3,608,310.

Article 30: Rescind Authorized and Unissued Borrowings

To see if the Town will vote to rescind various authorized, but unissued borrowing votes of the Town.

Pass any vote or take any action in relation thereto.

4/08 ATM A44C Main Library Renovation \$875
4/08 ATM A44G Police Locker Room \$858
4/08 ATM A44Q Permits, License Inspection \$381
4/08 ATM A46T Pond Street Water Replacement Design \$175
4/08 ATM A47F Cove Area Sewer Main Replacement \$700
4/09 ATM A39CC Brick Wall Fuller School \$649
4/09 ATM A41B 15 GVW Body \$25
5/10 ATM A24R ADA Upgrades \$32
5/10 ATM A24X Municipal Data Storage upgrade \$20

Background Material for Article 30:

The balances of the projects listed above have not been bonded, but are still authorized under the original Town Meeting votes. Town Meeting is required to reduce the authorizations by another vote in order to cancel these balances. This does two things: allows the Accounting Department to close these accounts as recommended by our Auditors; and reduces our authorized debt balance which is beneficial to our financial position. The rescindments by fund are: General Fund \$2,542; Water enterprise Fund \$175; Sewer Enterprise Fund \$725.

Article 37: Tax Deferral Rate Reduction from 8% to 4%

To see if the Town will vote to reduce the rate of interest that accrues on property taxes deferred by eligible seniors under Massachusetts General Law Chapter 59 §5, Clause 41A from 8% to

4%, with such reduced rate to apply to taxes assessed for any fiscal year beginning on or after July 1, 2012, or take any other action relative thereto.

Draft Motion for Article 37:

I move that Town Meeting vote to reduce the rate of interest that accrues on property taxes deferred by eligible seniors under Massachusetts General Law Chapter 59 §5, Clause 41A from 8% to 4%, with such reduced rate to apply to taxes assessed for any fiscal year beginning on or after July 1, 2012, or take any other action relative thereto.

Background Material for Article 37:

The Senior Tax Deferral program allows qualifying senior to defer payment of part or all of their taxes until they either sell or otherwise divest their property. The taxes are then paid out of the proceeds of the property sale or transfer. During the deferral period interest accrues annually on the amount of taxes deferred. This program is a local option created by Massachusetts General Law Chapter 59 section 5 clause 41A. The Town accepted this program (by Town Meeting vote) at the original statutory interest rate of 8%. Any change in the interest also requires Town Meeting vote. The effective date of this change in interest rate would be July 1, 2012. The reduction of the interest rate does not incur any cost to the Town as these funds are not built into any particular annual budget. This article does not change any of the other qualification requirements for the Senior Tax Deferral program. The maximum income limit is \$40,000 in the statute and cannot change unless the state law changes AND Town Meeting votes to adopt that change. There are currently 15 tax deferral agreements in place. This interest rate change will affect those agreements only from July 1, 2012 forward. The taxes that are deferred are not made up by the tax overlay account, they are deducted from the amount of taxes collected for that year. Again, the interest rate has no bearing on the finances of the Town, other than to make this option a little more attractive to people qualified for the Senior Tax Deferral program.



TOWN OF FRAMINGHAM
MASSACHUSETTS
Office of the Town Counsel

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To: Town Meeting Members

From: Christopher J. Petrini
Town Counsel

cc: Board of Selectmen
Finance Committee
Valerie Mulvey, Interim Town Manager
David R. Williams, Assistant Town Manager
Mary Ellen Kelley, Chief Financial Officer

Date: March 1, 2012

Re: **Special Purpose Warrant Article for Major Litigation Contingency Fund**

Over the past several years the creation of a major litigation contingency fund has been suggested by numerous Town Meeting Members, Selectmen, Finance Committee members and other town officials. The purpose of such a fund, if authorized by Town Meeting, would serve two primary benefits. First, creation of such a fund would assist the Town in financial planning for future major litigation expenses, much like the Town already does for undefined future expenses such as for snow and ice expenditures. Second, creation of such a fund avoids the need for the Selectmen or Town Counsel to request additional funding from Town Meeting in a public forum after major litigation is filed against the Town, as such a public process can give the Town's litigation adversaries the opportunity to obtain information regarding the Town's intended level of fiscal commitment along with other sensitive information pertinent to the litigation.

The major litigation contingency fund that I recommend would be in the amount of \$150,000 and utilized to pay legal expenses and costs for major litigation that has resulted in cumulative expenses of \$25,000 or more. Both the Selectmen and Finance Committee would be informed of the expenditure of such funds as they occur. The article is framed as a special purpose warrant article appropriation so that the funding will continue beyond FY 2013 if it is not used in the next fiscal year.

